

## The complaint

Mr D complains that Dignity Funerals Limited won't issue him a full refund, following cancellation of his funeral plan.

## What happened

To summarise, in September 2021, Mr D took out a funeral plan with a company I'll call P. The plan cost £3645 and was fully paid for. When Mr D bought his plan, the sale and administration of pre-paid funeral plans wasn't subject to compulsory regulation. But this changed in July 2022, when it became a requirement for firms in the pre-paid funeral plan industry to be regulated by the Financial Conduct Authority (FCA). P originally applied to become regulated, but later withdrew its application and went into administration. Customers were contacted with details of a proposal Dignity was offering, whereby they could obtain a Dignity funeral plan that matched as closely as possible their original plan, at no additional cost.

In April 2023, Mr D opted into the Dignity proposal and received plan documentation. In November 2023, Dignity wrote to Mr D regarding a change of nominated funeral director. The letter included a '*funeral plan schedule*' on which, under '*cancellation details*', it said:

*'You can cancel your plan at any time and get a full refund.'*

In January 2024, Mr D cancelled his plan via Dignity's website. The following day Dignity responded to the request by email, prompting a call from Mr D, who was unhappy that Dignity wouldn't be issuing any refund at that time.

Mr D complained. In its final response letter, Dignity acknowledged Mr D had received a plan schedule which said he could cancel and receive a full refund. But it said the wording was an error. Dignity relied on its terms, saying it couldn't refund what it hadn't received from Mr D's previous provider.

Mr D remained unhappy, so came to the Financial Ombudsman Service. But our investigator didn't uphold his complaint. Mr D didn't accept our investigator's view, so the complaint has come to me for a final decision. Mr D argues the standard terms are overridden by the explicit term stated in the November plan schedule he received. He says the terms are inconsistent, ambiguous and call into play the contra proferentem rule.

## What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I'm not upholding this complaint. I appreciate Mr D feels strongly about what's happened and I acknowledge my decision will be unwelcome news for him. I'll explain my reasons, focusing on the points and evidence I consider material to my decision.

Unfortunately, when P left the funeral plans market and went into administration, Mr D, like all P's customers, was put in an unenviable position with, through no fault of his own, very limited options.

I've reviewed the proposal letter Mr D received from Dignity in April 2023. Under a section entitled, '*what you need to do now*', it says:

*'Please be advised that if you wish to cancel your plan soon after transferring to Dignity, you will only receive a refund once Dignity receives the funds from the trustees of the [named] Trust and it will be capped at the amount Dignity receives in relation to your plan (which is likely to be less than the amount you have paid).'*

Mr D was also sent a '*funeral plan schedule*'. Under '*cancellation details*', the schedule states:

*'You can cancel your plan at any time and get a refund as per your terms and conditions.'*

The proposal letter and schedule refer to enclosed terms and conditions. I've reviewed these terms and can see that under the '*cancellation*' section it says:

*'Upon receiving your notice of cancellation, we will refund all the money paid within 30 calendar days of us receiving your notification. For the avoidance of doubt, where your plan was previously held by another provider, the refunded sum shall be capped at the amount of money received by us in relation to the plan from your previous provider and any subsequent payments made directly from you to us.'*

So I think the documentation Mr D originally received made it clear that any refund would be limited to funds Dignity received from Mr D's previous provider, P.

I've thought carefully about what Mr D's said regarding the contra proferentem rule and the ambiguity of Dignity's terms. Mr D argues that the standard terms are superseded by the letter and enclosed schedule of November 2023. He says Dignity should now provide him with a full refund.

It's unfortunate that when Dignity wrote to Mr D about the change of funeral director, it mistakenly sent a schedule referring to terms that didn't apply to his plan. But Mr D had previously been sent and acknowledges receiving the correct terms. So whilst I appreciate Mr D's argument, I don't agree with his conclusions.

To my mind, the wrong information on the November 2023 schedule doesn't nullify all the right information Mr D originally received. The misinformation was quickly corrected by Dignity when Mr D applied to cancel his plan.

I don't think it would be fair to hold Dignity responsible for making a full refund to Mr D because of an administrative mistake. Ultimately, Mr D paid that money to his original provider, not Dignity. To date, Dignity hasn't received any funds from P's administrators in relation to any of P's customers' plans.

My role is to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. And in all the circumstances of Mr D's case, I don't think it would be fair to require Dignity to refund Mr D money it hasn't received from his previous provider.

So overall, I don't think Dignity acted unfairly in not providing Mr D with a refund of the money he paid to P. Dignity has explained it will contact Mr D when it has more information about any refund available.

For these reasons, I'm not going to ask Dignity to do anything more in respect of this complaint.

### **My final decision**

My final decision is that I do not uphold this complaint about Dignity Funerals Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 21 May 2024.

Jo Chilvers  
**Ombudsman**